IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE DR JUSTICE G.YETHIRAJULU**

**WRIT PETITION NO: 15170 of 2004**

Between:

A.B. Prakash, S/o A.M. Babaiah,
R/o Goulipura, Old City, Hyderabad.

**..... PETITIONER**

AND

Food Corporation of India, Rep. by its Senior Regional Manager,
HACA Bhavan, Nampally, Hyderabad.

**.....RESPONDENT**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ, order, or direction more particularly one in the nature of writ of mandamus, declaring the action of the respondent in withholding the petitioners contributory provident fund of Rs.3,40,000/- (approximately) is illegal, irregular and against the provisions of Section 60(k) , (ka) and Section 10 of Employees Provident Funds and Miscellaneous Provisions Act, 1952, and Article 14, 21 and 300-A of Constitution of India, consequently direct the respondent to release the petitioners contributory provident fund amount of Rs.3,40,000/- (approximately) with interest.

**Counsel for the Petitioner: SMT.Y.RAJA RAJESWARI**

**Counsel for the Respondent: MR.B.ANJANEYULU (SC FOR FOOD CORPORATION)**

**The Court at the stage of admission made the following:**

**THE HON'BLE Dr. JUSTICE G.YETHIRAJULU**

**WRIT PETITION NO: 15170 of 2004**

**ORDER:**

The petitioner worked as an Assistant Grade-III in the respondent-Corporation. While the petitioner was in service, a decree was passed by the Court of VII Additional Junior Civil Judge, City Civil Court, Hyderabad, in O.S.No.2945 of 2000 for recovery of certain amount.

2. Subsequently, the Decree Holder filed E.P.No.6 of 2004 in O.S.No.2945 of 2000 on the file of the said Court. The Court ordered attachment of salary of the petitioner, through its order dated 08-01-2004 to a tune of Rs.1,11,311/-. By the time of receipt of the attachment order, the petitioner retired. Therefore, the respondent-Corporation sent a letter to the Court on 30-01-2004 informing that the petitioner took voluntary retirement with effect from 28-02-2003 while working in the District Office, Sanath Nagar, Hyderabad and the terminal benefits payable to the petitioner were already settled to him, except a portion of the Contributory Provident Fund available with the Food Corporation of India, Zonal Office, Chennai, which is sufficient to attach as per the order passed by the Court.

3. The learned counsel for the respondent-Corporation represents that an application has been filed before the Civil Court, requesting to raise the attachment on the ground that the Contributory Provident Fund cannot be attached. Even according to the attachment order, the amount liable for attachment is Rs.1,11,311/- only and whereas the petitioner contends that he is entitled to Rs.3,40,000/- being the amount payable to him towards the Contributory Provident Fund.

4. In the light of the circumstances explained by the petitioner, and in view of the application made by the respondent-corporation before the Civil Court, the respondent is directed to release the balance amount,

keeping the amount of Rs.1,11,311/- in abeyance, pending orders from the Civil Court, within one month from the date of compliance of all the formalities by the petitioner.

5. The Writ Petition is accordingly disposed of at the admission stage. No order as to costs.

_____

September 1,2004

KVR

TO

1 The Senior Regional Manager, Food Corporation of India,

HACA Bhavan, Nampally, Hyderabad.

2 Two C.D. Copies